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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,303	08/20/2003	Lawrence Peska	IHC-001US(PAR)	6035

7590

01/27/2005

David Aker  
23 Southern Road  
Hartsdale, NY 10530

EXAMINER
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PERRIN, JOSEPH L

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

18

<b>Office Action Summary</b>	<b>Application No.</b> 10/644,303	<b>Applicant(s)</b> PESKA, LAWRENCE	
	<b>Examiner</b> Joseph L. Perrin, Ph.D.	<b>Art Unit</b> 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 9, 12-16 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9, 12-16 & 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. In view of applicant's amendment filed 05 November 2004, the status of the application is as follows:

#### ***Specification***

The minor disclosure objections are withdrawn in view of applicant's amendment correcting the apparent typographical errors.

#### ***Claims Objections***

The objection of claims 7-8 & 10-11, indicated as containing allowable subject matter, is withdrawn in view of Applicant's amendment rewriting claims 7-8 & 10-11 into independent claims 1 & 9 thereby inserting the indicated allowable subject matter.

#### ***Rejections under 35 U.S.C. §112, second paragraph***

The rejection of claims 6-16 has been withdrawn in view of applicant's amendment. However, upon further consideration, a new rejection under 112, second paragraph has been made.

#### ***35 U.S.C. §102 Rejections***

The rejections of claims 1-6, 9 & 12-16 over Toyosawa & claims 1-4, 6, 9, 12-13 & 16 over Hsieh have been withdrawn in view of applicant's

amendment incorporating indicated allowable subject matter into independent claims 1 & 9.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5, 9, 12-16 & 25-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 4 & 13 contain the trademark/trade name Ziploc® (“Ziplock® arrangement”). Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a closing apparatus and, accordingly, the identification/description is indefinite.

5. In claims 1, 9 & 27, the phrase “endless pocket” renders the claim indefinite since it is unclear what applicant intends. How can the pocket be

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endless? This suggests that the pocket is open on the bottom, which goes against applicant's disclosure of an apparatus which holds an item to be washed. As best understood from applicant's original disclosure reference numeral 18 is directed to said pocket which appears to be substantially circular, and the claims will be examined accordingly. However, clarification and correction are still required. Applicant is reminded that correction of such language in the claims must also be corrected in the specification, *i.e.* have antecedent basis in the disclosure. Applicant is further reminded that no new matter may be introduced.

#### ***Allowable Subject Matter***

6. Claims 1-5, 9, 12-16 & 25-29 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

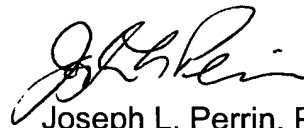
#### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph L. Perrin, Ph.D.  
Examiner  
Art Unit 1746

jlp